

**Governmental Advisory Committee
to the U.S. Representative to the
Commission for Environmental Cooperation**

June 9, 2000

Honorable Carol M. Browner
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460

Dear Administrator Browner:

On behalf of the Governmental Advisory Committee (GAC) to the U.S. Representative to the Commission for Environmental Cooperation (CEC) it is my pleasure to submit to you the following report from our meeting in Washington, DC on April 27-28, 2000. We have also included some general comments on the "Elements of an Article 14-15 Experts Working Group" concept paper that was forwarded to both the GAC and the National Advisory Committee (NAC) for review and comment on May 22.

During our meeting we discussed a number of topics, including:

- Issues dealing with Articles 14 and 15 of the North American Agreement on Environmental Cooperation (NAAEC);
- North American Free Trade Agreement (NAFTA) transportation corridors;
- The working draft of the CEC report on biodiversity conservation in North America;
- The North American Regional Action Plan (NARAP) on Mercury;
- The CEC's Sound Management of Chemicals (SMOC) program;
- The North American Pollutant Release and Transfer Register (PRTR);
- Environmental Management Systems (EMSs); and
- Green Goods and Services.

Our report and recommendations follow, but we would first like to thank William Nitze, Alan Hecht, and the representatives from other Agencies and Departments that met with us while we were in Washington. Their participation allowed us to engage in an immediate exchange of views and information which greatly enriched our discussions.

Articles 14 and 15

We note that the GAC, as well as the U.S. NAC, the Mexican and Canadian NACs, and the Joint Public Advisory Committee (JPAC) have all consistently and strenuously recommended that the current Articles 14-15 submissions procedure not be amended. It is our shared view that the current procedure has not been in place long enough for an objective evaluation of its effectiveness. Furthermore, we continue to believe, as we have stated in our previous letters of advice on this subject, that further revisions to the Articles 14-15 submissions procedure may hinder the Secretariat's ability to perform its obligations under the NAAEC. However, since we have been asked to review several different proposals, we will provide specific comments on some of the issues we have been asked to consider.

The GAC has several concerns regarding the creation of a workgroup to advise the Council or the Secretariat on issues dealing with Articles 14-15. First, if its role and function are not clearly delineated, a workgroup could prove to be disruptive to the current submissions procedure by injecting uncertainty into a process that is still evolving. Second, in the same vein, the NAAEC gave the Secretariat wide discretion and independence regarding the preparation of factual records, and a workgroup could inappropriately limit or curtail the legitimate responsibility of the Secretariat. Finally, we strongly feel that discussion of a possible workgroup—or discussion of other issues dealing with Articles 14-15—should not preclude voting on the submissions that are currently pending.

Transportation Corridors

In our last letter of advice, we emphasized the importance of addressing the growing air quality and other environmental problems stemming from congestion at border crossings, particularly along the U.S. - Mexico border. While we are pleased that the CEC has devoted additional funding to this issue, we remain concerned about the overall level of resources that will be needed to deal with the trade-related environmental impacts along North America's transportation corridors.

We urge the CEC to explore opportunities for partnering with other organizations that are working to alleviate congestion and environmental impacts at border crossings. Although the CEC's program plan identifies a number of potential partners for its project on transportation corridors, we emphasize the need to involve the many governmental agencies that are devoting significant resources to addressing transport related problems along the borders.

Biodiversity Strategies

We commend the CEC for its continued good work regarding the conservation of biodiversity in North America, however, we want to again emphasize the importance of outreach and public participation in developing the strategies to realize that goal. One of our members, Mr.

Mel Moon, attended the CEC meeting in Guadalajara to provide a tribal perspective on the conservation of biodiversity. We believe that forums of this type are an excellent means of ensuring participation from indigenous peoples who might not otherwise have an opportunity to share their views. We strongly recommend that the CEC continue to work with tribal representatives to develop an effective public participation process for indigenous peoples.

We also want to reemphasize the importance of insuring Federal and State coordination and cooperation in biodiversity conservation strategies, and we note that U.S. state governmental organizations are not included in Appendix B of the CEC working draft of "Securing the Continent's Biological Wealth: Towards Effective Biodiversity Conservation in North America." We feel that a regional approach, involving all levels of government and a broad cross section of state and national conservation organizations, is essential to achieving sound approaches to conserving the biodiversity of North America. We recommend that the CEC involve a broader range of organizations as it seeks comments on "Securing the Continent's Biological Wealth."

Mercury NARAP

We complement the CEC on the progress that has been made in improving the Mercury NARAP. We feel that the CEC has accepted criticisms from the GAC and other sources on earlier versions of the Mercury NARAP and as a result has significantly strengthened the plan. We also want to stress the crucial role that the CEC can play in tri-national efforts to address pollutants such as mercury that have impacts beyond national boundaries.

Despite the progress that the CEC has made on the Mercury NARAP, we remain concerned about funding for this effort and the pace of the work. We are particularly concerned about the lack of a comprehensive mercury strategy from the Federal government and EPA, irrespective of the work of the CEC. We strongly recommend that EPA take a leadership role in developing a mercury strategy for the Federal government, that it devote additional resources to its own mercury programs, and that it augment the CEC funding allocated to mercury programs.

Other SMOC Issues

Before addressing other SMOC issues, we want to acknowledge the exemplary work of Dr. Andrew Hamilton, and we urge the CEC to replace him with someone as eminently competent as soon as possible. To accelerate progress in reducing risks from persistent toxic substances, we recommend that the U.S. complete its national reassessment for dioxin as quickly as possible, and that the CEC proceed with the development of a dioxin NARAP. The long-range transport and bio-accumulation of dioxins is a significant health risk to indigenous peoples who are dependent upon their traditional food sources for sustenance. The CEC should continue to examine the effects of persistent toxic chemicals on indigenous peoples so that these issues are fully addressed in a NARAP for dioxin.

North American PRTR

The GAC wishes to reinforce the value of producing the Taking Stock report to ensure that citizens in all three NAFTA countries have access to information on chemicals and facilities that may have an impact on their well-being. The CEC should continue to refine and enhance the Taking Stock annual series and should continue its efforts to facilitate the development of a PRTR system in Mexico. Accurate and comparable emissions information on a continent-wide basis is essential to informed public participation and sound policy development.

Environmental Management Systems

The GAC believes that the real value of EMSs lie in their potential to achieve environmental improvements and reductions in pollutants that might not be mandated by law. Although EMSs can promote pollution prevention and can help achieve compliance with environmental standards through non-regulatory means, we caution that EMSs should not be thought of as a substitute for regulatory enforcement. As it evaluates EMSs as a tool to achieve environmental progress, we strongly recommend that the CEC carefully prioritize its efforts to insure that available resources are applied where they will achieve the greatest results.

Green Goods and Services

For green goods and services to be successful and accepted, uniform standards will need to be developed and adopted. Uniform standards—such as product labeling—will facilitate trade in green goods and services by providing consumers accurate information needed to make informed decisions. We believe that the CEC should build upon its work in this area by convening groups with an interest in developing uniform standards for a broad range of green goods, services, and products.

In closing, we would like to thank you for the opportunity to serve on the Governmental Advisory Committee and for the opportunity to participate in the CEC Council Session. We feel that by attending the Council Session as observers we gain a more complete understanding of the issues you must address as the U.S. Representative, which in turn allows us to more effectively serve you in that capacity. Please contact me if you have any questions or concerns regarding our report. We look forward to your response.

Sincerely,

Robert Varney, Chair
Governmental Advisory Committee

The Honorable Carol M. Browner
June 9, 2000

Page 5

cc: William Nitze
Alan Hecht
Clarence Hardy
Ana Corado
Mark Joyce